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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In The Matter of	)	
	)	
Implementation of Section 309(j) of the Communications Act - Competitive Bidding Narrowband PCS	)	PP Docket No. 93-253
	)	
Amendment of the Commission's Rules to Establish New Narrowband Personal Communications Services	)	GEN Docket No. 90-314 ET Docket No. 92-100

To: The Commission

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REPLY COMMENTS OF PAGEMART, INC.

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SUMMARY

PageMart urges the Commission to adopt competitive bidding rules that balance the concerns of all prospective narrowband PCS participants. To facilitate this objective in light of the comments filed in this proceeding, PageMart makes several recommendations.

Initially, PageMart endorses the Commission's proposal to establish entrepreneurs' blocks, but urges the Commission to set aside only those blocks that already carry a bidding credit. This approach strikes a fair compromise between the Commission's extensive, proposed set-aside and the more modest alternatives suggested by some commenters. PageMart's proposal also has the virtue of guaranteeing designated entity participation in narrowband PCS without foreclosing opportunities for medium-sized companies.

Next, PageMart stresses that the paging industry is moving toward wider-area service. With few exceptions, the only firms that remain interested in the geographically smaller licenses are the more modestly-sized companies that will be bidding in the entrepreneurs' blocks. Given the likely composition of the non-entrepreneur block bidding pool, there is no reason to retain the BTA- and MTA-sized licenses outside the entrepreneurs' blocks. Instead, the Commission should either aggregate these licenses or permit combinatorial bidding on them. Aggregation or combinatorial bidding would have the added virtue of bolstering

competition, and would be equitable in light of the Commission's explicit decision to retain the flexibility to adopt new bidding rules based on experience gained in prior auctions.

The trend to wide-area service also suggests that a reallocation of the MTA-sized response channel licenses into regional service areas would be appropriate. Because nearly all prospective users of these channels already have regional or nationwide networks in place, they will seek corresponding regional or nationwide response channel licenses. It would be both inefficient and potentially unfair to force these firms to assemble response channel networks on a license-by-license basis. Aggregation of the MTA response channel licenses would mitigate this problem while still leaving return-link spectrum available for local users.

Finally, PageMart agrees with American Paging's suggestion that the Commission should immediately begin a proceeding to channelize the remaining 1 MHz of narrowband spectrum held in reserve. PageMart proposes that the Commission establish 25 kHz paired channels and some additional 12.5 kHz unpaired response frequencies.

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REPLY COMMENTS OF PAGEMART, INC.

PageMart, Inc. ("PageMart"), by its attorneys, hereby submits reply comments in the above-captioned proceeding.

I. THE ENTREPRENEURS' BLOCKS SHOULD BE CONFINED TO THOSE LICENSES THAT ALREADY INCLUDE A BIDDING CREDIT FOR DESIGNATED ENTITIES.

In deciding how many licenses to set aside for entrepreneurs, the Commission must balance the concerns of bidders of all sizes, along with the public interest in rapid, cost-effective, and efficient service deployment. In comments filed in this proceeding, PageMart argued that setting aside blocks, in addition to those already designated for bidding credits, would be unfair to medium-sized companies.[1/] Such a plan would leave too few licenses available to non-entrepreneurs, thereby making it

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1/ See Comments of PageMart at 2-7 (filed Sept. 16, 1994).

virtually impossible for those without deep pockets -- such as PageMart -- to bid successfully.

Several parties commented on the wisdom of the Commission's set-aside proposal, with some favoring the plan and others suggesting more modest alternatives.[2/] PageMart's proposal that the Commission establish entrepreneurs' blocks consisting only of those channels already designated for a bidding credit strikes a fair compromise between these divergent views. This approach guarantees designated entity participation in narrowband PCS at a significant level, while still providing to medium-sized companies an opportunity to bid successfully.

II. LARGER SERVICE AREAS FOR THE NON-ENTREPRENEUR BLOCK LICENSES RECOGNIZE INDUSTRY TRENDS, ARE MORE EFFICIENT, AND BETTER SERVE THE PUBLIC INTEREST.

A. The Paging Industry Is Evolving Toward Regional And Nationwide Service.

The paging industry is rapidly moving away from locally-oriented operations toward wide-area systems. As PageMart explained in its comments, consumer demand, the requirements of manufacturers, and changing technology are

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[2/] Compare, e.g., Comments of AirTouch Paging ("AirTouch") at 10 ("The total amount of spectrum proposed to be set aside in the entrepreneur blocks appears excessive.") with Comments of Chief Counsel for Advocacy of the United States Small Business Administration at 3 ("The Office of Advocacy cannot endorse strongly enough the proposals of the Commission.").

the driving forces behind this transformation of the industry.[3/] The evidence of this evolution is widespread.

Leading companies in the industry noted the shift as early as 1992.[4/] The financial community -- which has an intense interest in correctly forecasting the paging industry's future -- has reached a similar conclusion.[5/]

[3/] See Comments of PageMart at 8-9.

[4/] See, e.g., Comments of PageNet at 5 ("incumbent paging carriers . . . increasingly provide wide-area services"). See also Comments of PageMart at 8 (citing prior Comments of Metrocall of Delaware, Inc.; Comments of Mobile Telecommunications Technology, Inc., Comments of Motorola, Inc.; Comments of Paging Network, Inc.; Comments of Telocator; Comments of American Paging, Inc.). In its comments, PageMart inadvertently misidentified the year in which these comments were filed; the comments were filed in 1992, not 1994.

[5/] Several leading investment banks and consulting firms have concluded that regional and nationwide service represent the future for the paging industry. See, e.g., F. Moran & E. Weinstein, The Wireless Telecommunication Review 21 (Spring 1994) (Salomon Brothers); M. Vernetti, "Nationwide Paging Networks: Wireless Links to an Array of Services," PCIA Journal, Feb. 1994 at 17 ("Paging's emphasis on nationwide networks [has] mirrored that of the cellular and ESMR industries, all of which have decided that 'every consumer in America needs to have nationwide service.' . . . [T]his [is] a major trend in wireless communications.") (quoting John L. Bauer III, vice president, Prudential Securities); D. Connaughton, "The 1990s May Be the Wireless Decade" Telocator, June 1993, at 16 ("'There has been a trend in the [paging] industry from local to wide-area paging and even nationwide paging. We are now in the beginning, I think, of a transition . . . to more national versus regional markets.'") (quoting Andrew D. Rescue, chief executive officer of Economic and Management Consultants International, Inc.); Smith Barney Shearson, Bulletin/Wireless Industry - Industry Report 4 (Jan. 13, 1994) ("the trend in the paging industry is for consolidation activity to minimize the fragmentation of local markets and produce regional or

(continued...)

Indeed the Commission itself, in its exhaustive, recently released Third Report and Order on the regulatory treatment of mobile services, has acknowledged this trend and observed that "paging companies are pursuing marketing strategies that emphasize the need to establish nationwide service."[6/] PageMart urges that the Commission's rules for auctioning narrowband PCS spectrum respond to this evolution by permitting the aggregation of the BTA- and MTA-sized licenses, or alternatively by allowing combinatorial bidding.

B. The Trend Toward Wider-Area Paging Service Undermines The Rationale For Retaining Non-Entrepreneur Block BTA- And MTA-Sized Licenses.

The move to larger service areas does not mean that there is no place for smaller firms or local service in the future paging market. In fact, the set-aside of certain spectrum for entrepreneurs virtually guarantees these firms a place. However, it is unrealistic to expect that companies of all sizes will, in all cases, compete with each other for the same market segments. To some extent, there will be a segmentation of the market, with larger companies offering regional or nationwide service and smaller entities operating more modestly-sized systems due to cost

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[5/] (...continued) mega-carriers and ultimately nationwide entities. . . . national paging is emerging").

[6/] Implementation of Section 3(n) and 332 of the Communications Act, Regulatory Treatment of Mobile Services, FCC 94-212, ¶ 62 (Sept. 23, 1994) (emphasis added).

considerations.[7/] When entrepreneurs' blocks are added to this equation, it is obvious that the entities not eligible to bid in these blocks will be the larger firms, interested in providing regional and nationwide service.[8/]

Given this conclusion about the composition of the non-entrepreneur block bidding pool, it makes little sense to retain the BTA- and MTA-sized service areas outside the entrepreneurs' blocks. If the Commission keeps these smaller licenses, larger firms will be forced to assemble their desired service areas license-by-license, an inefficient and unnecessary chore. By either aggregating the licenses or permitting combinatorial bidding, the Commission can eliminate this inefficiency without

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7/ This hypothesis about the likely narrowband market structure is supported by other commenters. Of those would-be designated entities that filed comments, there was significant support for smaller license sizes. See, e.g., Comments of David J. Lieto; Comments of the Personal Communications Industry Association ("PCIA") at 3-4 (nationwide service areas are not "realistic" for designated entities).

8/ See Comments of PageMart at 9-10. This is especially true given the relatively permissive nature of the entrepreneurs' block eligibility criteria. Several commenters noted that the entrepreneurs' blocks eligibility criteria are overly generous, encompassing virtually all companies other than a handful of the largest providers. See, e.g., Comments of PCIA at 5 ("[the proposed eligibility criteria are] so broadly written . . . as to encompass all but a few members of today's paging industry."). PageMart agrees that too many firms not meriting preferential treatment will qualify to bid in the entrepreneurs' blocks under the proposed rules. In any event, there is little question that the companies bidding outside the entrepreneurs' blocks will not be local paging operations, but sizeable companies' competing on at least the regional level.

sacrificing its goal of disseminating licenses among a wide variety of providers.

C. Creating Additional Regional And Nationwide Licenses Will Increase Competition.

Creating additional regional or nationwide licenses through aggregation or combinatorial bidding will also serve the public interest by increasing competition and speeding service deployment. As other commenters in this proceeding observed, the high bidders on paired frequencies in the nationwide auction were limited to a handful of companies.[9/] Although the regional auctions will give the Commission an additional opportunity to increase the number of wide-area narrowband providers, these auctions will likely be dominated by the larger players (such as the Regional Bell Operating Companies ("RBOCs")). These industry behemoths limited their participation in the nationwide auctions, but will be quite active in the regional auctions.[10/] Thus, absent the creation of some additional regional or nationwide licenses (either through a reallocation or combinatorial bidding), competition in the

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9/ See, e.g., Comments of American Paging, Inc. ("American Paging") at 4.

10/ For example, AirTouch suggests that it, along with several other bidders, held back at the nationwide auction in the expectation of acquiring further licenses at the regional auctions. Comments of AirTouch at 8 n.19.

regional and nationwide narrowband PCS markets will be stifled.[11]

D. Both Service Area Aggregation And Combinatorial Bidding Are Equitable.

The Personal Communications Industry Association ("PCIA") argues that the Commission should not create new nationwide allocations in the entrepreneurs' blocks.[12] PCIA's argument is based essentially on two premises: (1) designated entities will be harmed by larger allocations; and (2) creating new, nationwide licenses would be unfair after several bidders already committed significant sums at the nationwide auctions.

PageMart does not dispute the first premise. Indeed, the argument that designated entities require smaller, not larger, license areas lends credence to PageMart's view that the creation of the entrepreneurs' blocks would eliminate the rationale for the BTA- and MTA-sized licenses.

PCIA's suggestion that the creation of additional nationwide license would be inequitable deserves more careful analysis.[13] The Commission has made clear

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11/ See Comments of American Paging at 3-4.

12/ See Comments of PCIA at 7.

13/ Although PCIA does not address combinatorial bidding or the aggregation of non-entrepreneurs' block MTA channels, its argument seems equally applicable to aggregation inside and outside any entrepreneurs' blocks. Thus, PageMart wishes to take this opportunity to explain its position on this point.

throughout this proceeding that its rules will be adjusted as experience provides insights into how best to serve the public interest.[14/] In the proceeding to establish narrowband-specific auction rules, the Commission explicitly indicated that it was creating a menu of choices from which rules for the individual auctions would be selected.[15/] The Commission specifically included combinatorial bidding in its set of options for future auctions.[16/] Given these unambiguous statements by the Commission, a reallocation of certain channels or the adoption of combinatorial bidding can hardly be considered a surprise or an attempt at "retroactive" rulemaking, as PCIA contends.[17/]

[14/] See, e.g., Implementation of Section 309(j) of the Communications Act - Competitive Bidding, FCC 94-61, ¶¶ 9, 68 (Apr. 20, 1994). This approach flows from the explicit Congressional directive to experiment with different auction methodologies. See 47 U.S.C. 309(j)(3).

[15/] See Implementation of Section 309(j) of the Communications Act - Competitive Bidding, FCC 94-98, ¶ 16 (May 10, 1994) ("Third Report and Order").

[16/] See Third Report and Order ¶ 24. The Commission has also explicitly stated its intention to facilitate aggregation of service areas. See Amendment of the Commission's Rules to Establish New Narrowband Personal Communications Services, FCC 94-30, ¶ 14 (Mar. 4, 1994) ("we anticipate that the rules we will adopt to govern the competitive bidding process will provide for and facilitate the aggregation of service areas").

[17/] See Comments of PCIA at 7.

III. RESPONSE CHANNELS

A. The Commission Should Aggregate The MTA-Sized Response Channels Into Regional Service Areas.

As PageMart has already demonstrated, the paging industry is rapidly moving in the direction of larger service areas.[18] This trend affects not only the paired frequencies, but also the likely use of the unpaired response channels. Firms will utilize the response channels to provide advanced messaging services, which, as is the trend in the industry, will most likely be offered on a regional or nationwide basis.[19] As in the case of the paired channels, assembling a response channel network on a license-by-license basis is unnecessarily cumbersome and could result in significant inefficiencies.[20] This problem is particularly acute with respect to response channels because companies acquiring these channels will already possess the relevant forward licenses, and will simply be looking to mirror these service areas. Thus, firms will be vulnerable to strategic bidding aimed at

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[18] See supra, Section II(A).

[19] See, e.g., Comments of American at 4 ("geographic aggregation [is] essential to the deployment of new and innovative service offerings.").

[20] As PageNet points out, bidders will be exposed to high potential losses if certain key licenses cannot be acquired. See Comments of PageNet at 5-6. This raises the serious risk of strategic bidding to deny essential licenses to players attempting to assemble larger service area networks.

blocking the acquisition of response channels in key service areas.

B. The Commission Should Not Place Any Of The Response Channels In The Entrepreneurs' Blocks.

A sizable number of the commenters addressing this issue echoed PageMart's argument that the Commission should not relocate any of the 12.5 kHz response channels into the entrepreneurs' blocks.[21/] At least insofar as these channels can only be paired with existing paging frequencies, moving them into the entrepreneurs' blocks will only give certain existing firms -- not entrepreneurs -- a leg up on the competition.[22/] For simple reasons of supply and demand, a movement of the response channels into the entrepreneurs' blocks would also raise the price of otherwise fungible licenses that were not set aside.[23/]

IV. CHANNELIZATION OF THE ONE MHZ HELD IN RESERVE

PageMart agrees with American Paging that the Commission should immediately begin a proceeding to channelize the one MHz of narrowband PCS spectrum held in reserve.[24/] In PageMart's view, the most efficient channelization plan for the remaining one MHz of spectrum

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21/ See Comments of AirTouch at 13-14; Comments of PageNet at 2-4; Comments of PCIA at 6.

22/ See Comments of PageNet at 4.

23/ Cf. Comments of AirTouch at 10-11 (arguing that setting aside the paired licenses will raise the prices paid on non-set aside licenses).

24/ See Comments of American Paging at 3.

would allocate 25 kHz forward channels symmetrically paired with 25 kHz response channels. A 25/25 kHz allocation would provide sufficient bandwidth for all existing paging applications, would be the most efficient utilization of the spectrum, and would form a solid basis for the transition to new technologies.[25/] Moreover, because of PageMart's concern that the future of paging will be focused on the two-way market, it urges the Commission to allocate additional unpaired 12.5 kHz response channels from the one MHz PCS reserve. PageMart will have additional comments on the channelization of this spectrum when the Commission issues the appropriate Notice Of Proposed Rulemaking.

V. CONCLUSION

The Commission must balance the interests of all potential participants in narrowband PCS and craft competitive bidding rules that will efficiently ensure the dissemination of licenses among a wide variety of firms. To accomplish this aim, PageMart has shown that the Commission should set-aside for entrepreneurs only those licenses that already carry a bidding credit, and aggregate the remaining

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[25/] For example, all existing paging providers in the 929-932 MHz band are currently utilizing bandwidths of 25 kHz. Digital data transmissions up to at least 48 kbps and in some cases up to 64 kbps can be carried over 25 kHz channels. Even advanced messaging services like stored voice transmissions currently can be handled in 25 kHz allocations. Larger allocations of spectrum are not necessary even utilizing existing technology, and will undoubtedly become an even greater waste of precious spectrum with future advances in technology.

licenses into regional or nationwide service areas (through either a reallocation or combinatorial bidding). The Commission should also leave all response channel licenses open to bidding by all parties, and consider a reallocation of the MTA-sized response channels to regional or nationwide service areas. This will assure that companies with existing forward spectrum can acquire easily the licenses necessary to compete in the two-way paging market. These proposals will ensure a vibrant and competitive narrowband PCS industry.

Respectfully submitted,

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